

REMARKS

Applicant is in receipt of the Office Action mailed April 7, 2004. Applicant has amended various of the claims and submits new claims to more fully and completely claim Applicant's invention. Reconsideration of the present case is earnestly requested in light of the following remarks.

§103 Rejections

Applicant respectfully submits that independent claims 73, 95, 104, 117, 128, 136, 143, 149, and 151, as amended, are allowable. Applicant also respectfully submits that independent claim 153 is allowable.

As Examiner is certainly aware "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)" as stated in the MPEP §2143.03. Accordingly, Applicant respectfully submits that claims 73-76, 78-120, 122-144, and 146-157 are allowable.

Claims 73-76, 78-80, 82-84, 86-87, 95-101, 103-107, 111-113, 117-120, 122, 124, 128-140, 143-144, 146, 149, and 151 were rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art and Filepp et al. (U.S. Patent No. 5,578,072, hereinafter "Filepp").

Applicant respectfully submits that there is no teaching, suggestion, or motivation to combine Applicant's admitted prior art and Filepp in either of the Filepp reference or in the prior art. As held by the U.S. Court of Appeals for the Federal Circuit in *Ecolochem Inc. v. Southern California Edison Co.*, an obviousness claim that lacks evidence of a suggestion or motivation for one of skill in the art to combine prior art references to produce the claimed invention is defective as hindsight analysis. Thus, Applicant respectfully submits that it is improper to combine Applicant's admitted prior art and Filepp. Moreover, even if Applicant's admitted prior art and Filepp were

combinable, Applicant respectfully submits that the combination of Applicant's admitted prior art and Filepp would not produce Applicant's claimed invention.

The Office Action asserts: "Regarding claims 73, 117, and 143. . .Applicant's admitted prior art differs from the claim in that Applicant's admitted prior art fails to teach that a first palette window is closed subsequent to said receiving the user input selecting navigation item. However, such feature is old and well known in the art. For example, Filepp teaches the navigation buttons Next 291 which, upon selected, will close the current page and display the next page (Fig. 3b). It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a next button for closing a current page and display the next page in Applicant's admitted prior art system. . ." (*emphasis added*).

Applicant respectfully submits that Applicant's admitted prior art teaches a graphical programming environment that uses a hierarchy of palette windows which can be used by a user to add functionality to a program being created or modified (Specification page 2, lines 14-26). Rather than teaching or disclosing using a hierarchy of palette windows in a programming environment, Filepp teaches and discloses navigating pages on a screen of a computer system. Even the Office Action asserts that Filepp teaches and discloses using a "buttons" to close "the current page" and "display the next page".

Applicant respectfully submits that Filepp functions to navigate pages on a screen rather than provide a graphical programming environment that uses a hierarchy of palette windows which can be used by a user to add functionality to a program being created or modified. Accordingly, Applicant respectfully submits that Applicant's admitted prior art and Filepp are nonanalogous. As Examiner is certainly aware "While Patent Office classification of references and the cross-references in the official search notes are some evidence of "nonanalogy" or "analogy" respectively, the court has found "the similarities and differences in structure and function of the inventions to carry far greater weight." *In*

re Ellis, 476 F.2d 1370, 1372, 177 USPQ 526, 527 (CCPA 1973)” as stated in the MPEP §2141.01(a) (*emphasis added*).

Furthermore, Filepp nowhere teaches or suggests that any system or method described in Filepp is capable of creating or modifying a program. Applicant respectfully submits that even if Filepp could be modified to create or modify a program, modifying Filepp to create or modify a program would change the principle of operation of Filepp.

As Examiner is certainly aware, as stated in the MPEP §2143.01 “If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. *In re Ratti* , 270 F.2d 810, 123 USPQ 349 (CCPA 1959). . .” (*emphasis added*).

Even though Filepp does disclose and teach window page partitions 275 in Filepp’s Figure 3a and in Filepp’s col. 8, lines 59-65, Filepp further teaches and discloses simultaneously displaying page 255 of Filepp’s Figure 3a and window partition 275 of Filepp’s Figure 3a (Filepp col. 8, line 59 - col. 9, line 14).

Applicant respectfully submits that even if page 255 of Filepp’s Figure 3a was a first window and window partition 275 of Filepp’s Figure 3a was a second window, Filepp nowhere teaches or suggests: “. . . receiving user input selecting a navigation item displayed on the first palette window. . .”, “. . .closing the first palette window in response to said receiving user input selecting the navigation item. . .(*emphasis added*)” and “. . .displaying at least one of a parent palette window or a child palette window in relation to the first palette window in the hierarchy of palette windows in response to said user input selecting the navigation item” as currently recited in pertinent part by claim 73. Neither Applicant’s admitted prior art nor Filepp teach or suggest this combination of features.

Thus, Applicant respectfully submits that claim 73 is patentably distinguished over both Applicant’s admitted prior art and Filepp, taken both singly and in combination. Accordingly, Applicant respectfully submits that, at least for one or more reasons presented, claim 73 and those dependent therefrom are allowable.

Claims 95, 117, and 143 include limitations similar to claim 73, and so the arguments presented above apply with equal force to these claims, as well. Applicant respectfully submits that for at least the reasons presented above, claims 95, 117, and 143, and those claims respectively dependent thereon are patentably distinguished over both Applicant's admitted prior art and Filepp, taken both singly and in combination, and are allowable.

Claim 104 currently includes limitations similar to claim 73, specifically, the features “. . .receiving user input selecting a first palette window selection item of the one or more selection items in the first palette window. . .”, “. . .displaying a second palette window on the display in response to said receiving the user input selecting the first palette window selection item, wherein the second palette window is a child palette window of the first palette window in the hierarchy of palette windows, wherein the child palette window comprises at least one palette item. . .”, and “. . .closing the first palette window in response to said receiving the first user input selecting the first palette window selection item”, and so the arguments presented above apply with equal force to claim 104, as well. Accordingly, Applicant respectfully submits that, at least for one or more reasons presented, claim 104 and those dependent therefrom are allowable.

Claim 128 currently includes limitations similar to claim 73, specifically, the features “. . .receive user input from the input device selecting a navigation item displayed on the currently displayed palette window. . .”, “. . .close a currently displayed palette window in response to said user input selecting the navigation item. . .”, and “. . .display a previously displayed palette window on the display device in response to said user input selecting the navigation item”, and so the arguments presented above apply with equal force to claim 128, as well. Accordingly, Applicant respectfully submits that, at least for one or more reasons presented, claim 128 and those dependent therefrom are allowable.

Claim 136 currently includes limitations similar to claim 73, specifically, the features “. . .receive user input from the input device selecting a first palette window selection item of the one or more selection items in the first palette window. . .”, “. . .display a second palette window on the display device in response to the user input selecting the first palette window selection item, wherein the second palette window is a child palette window of the first palette window in the hierarchy of palette windows. . .”, and “. . .close the first palette window in response to the first user input selecting the first palette window selection item”, and so the arguments presented above apply with equal force to claim 136, as well. Accordingly, Applicant respectfully submits that, at least for one or more reasons presented, claim 136 and those dependent therefrom are allowable.

Claim 149 currently includes limitations similar to claim 73, specifically, the features “. . .receiving user input selecting a navigation item displayed on the currently displayed palette window. . .”, “. . .closing a currently displayed palette window in response to said user input selecting the navigation item. . .”, and “. . .displaying a previously displayed palette window in response to said user input selecting the navigation item”, and so the arguments presented above apply with equal force to claim 149, as well. Accordingly, Applicant respectfully submits that, at least for one or more reasons presented, claim 149 and those dependent therefrom are allowable.

Claim 151 currently includes limitations similar to claim 73, specifically, the features “. . .receiving user input selecting a first palette window selection item of the one or more selection items in the first palette window. . .”, “. . .displaying a second palette window on the display in response to said receiving the user input selecting the first palette window selection item, wherein the second palette window is a child palette window of the first palette window in the hierarchy of palette windows. . .”, and “. . .closing the first palette window in response to said receiving the first user input selecting the first palette window selection item”, and so the arguments presented above apply with equal force to claim 151, as well. Accordingly, Applicant respectfully submits that, at least for one or more reasons presented, claim 151 and those dependent therefrom are allowable.

Claim 153 currently includes limitations similar to claim 73, specifically, the features “. . .receiving user input selecting the at least one palette window selection item from the first palette window. . .” and “. . .in response to said receiving user input selecting the at least one palette window selection item, displaying the second palette window and closing the first palette window. . .”, and so the arguments presented above apply with equal force to claim 153, as well. Accordingly, Applicant respectfully submits that, at least for one or more reasons presented, claim 153 and those dependent therefrom are allowable

The Office Action asserts: “Regarding claims 104, 136, and 151, Applicant’s admitted prior art teaches. . .The first palette window includes navigation items (108A) for navigating among the hierarchy of palette windows. . .” (*emphasis added*).

Applicant respectfully submits that 180A in Applicant’s Figures 4A-4C is a “palette window selection item 108A”:

Figures 4A-4C illustrate a prior art method for accessing a hierarchy of palette windows. Figures 4A-4C illustrate a prior art example of a hierarchy of palette windows from the LabVIEW graphical programming environment. Program elements, including user interface elements such as controls and indicators (e.g. ActiveX controls, buttons, switches, graphs, gauges, etc.), may be added to a software application under development by using the exemplary palette windows 100 as illustrated in Figure 4A-4C. Palette windows 100 as illustrated in Figure 4A may include one or more items which may include palette window selection items 108 (for example, graph palette window selection item 108A of Figure 4A), and palette items. Exemplary palette items include program elements 112 (for example, user interface element 112A of Figure 4B), or utility items 110 (for example, utility item 110A of Figure 4A). Each item may include a graphical or textual indication of the type of item it is, and may include graphical and/or textual indications of the

palette window, program element, etc. that it represents. (Specification page 2, lines 14-26) (*emphasis added*)

Applicant respectfully submits that the present application teaches that one or more navigation items may be present on one or more of a hierarchy of palette windows, for example:

Palette windows 200 as illustrated in Figures 5A-5E may also include one or more navigation items for navigating among the hierarchy of palette windows 200. Figure 5A illustrates one embodiment of a palette window 200A with several navigation items comprised in a navigation toolbar 214. The navigation items in this embodiment may include one or more of a back navigation item 216, a forward navigation item 218, and an up navigation item 220. In one embodiment, palette windows 200 may also include a back navigation menu item 217, a forward navigation menu item 219, and an up navigation menu item 221. (Specification page 25, lines 9-16)

Applicant respectfully submits that Applicant's admitted prior art nowhere teaches or suggests "navigation items" as discloses in the present patent Specification.

Applicant respectfully also submits that Applicant teaches and discloses that one or more palette window selection items may be present on one or more of a hierarchy of palette windows, for example:

Palette windows 200 as illustrated in Figures 5A-5E may include a palette 204 of one or more graphical items which may include palette window selection items 208 (for example, graph palette window selection item 208A of Figure 5A), program elements 212 (for example, user interface element 212A of Figure 5C), and utility items 210 (for example, utility item 210A of Figure 5A for displaying an interface for selecting custom controls). Each item may include a graphical or textual indication of the type of item it is, and may include graphical and/or textual indications of

the palette window, program element, etc. that it represents. In the palette windows 200 illustrated in Figures 5A-5E, a triangle or arrow at the upper right corner of an item may indicate that the item is a palette window selection item 208, an ellipsis at the bottom of an item may indicate that the item is a utility item 210, and the absence of an indicator may indicate that the item is a program element 212. Other embodiments may include other types of items. Other embodiments may also use other graphical or textual indicators for identifying item types to users. (Specification page 23, line 21 - page 24, line 5) (*emphasis added*)

Furthermore, neither Applicant's admitted prior art nor Filepp teach or suggest a combination of the features “. . .receiving user input selecting a first palette window selection item of the one or more selection items in the first palette window. . .(*emphasis added*)”, “. . .displaying a second palette window on the display in response to said receiving the user input selecting the first palette window selection item, wherein the second palette window is a child palette window of the first palette window in the hierarchy of palette windows, wherein the child palette window comprises at least one palette item. . .”, and “. . .closing the first palette window in response to said receiving the first user input selecting the first palette window selection item (*emphasis added*)” as currently recited in pertinent part by claim 104.

The Office Action further asserts: “However, Filepp, in the same art of graphical user interface system, clearly teaches at col. 49, lines 39-41 that a selection of a close command can trigger the system to perform both tasks of closing a current window and open another window.”

As noted above, Applicant respectfully submits that Filepp functions to navigate pages on a screen rather than provide a programming environment that uses a hierarchy of palette windows which can be used by a user to add functionality to a program being created or modified. Accordingly, Applicant respectfully submits that Applicant's admitted prior art and Filepp are nonanalogous.

Applicant respectfully submits that Filepp nowhere teaches or suggests a programming environment that uses a hierarchy of palette windows which can be used by a user to add functionality to a program being created or modified. Rather Filepp teaches and discloses a high-level programming language which supports “a new window to be opened after closing the currently opened window” (Filepp col. 38, line 22 - col. 49, line 41).

In contradistinction, Applicant’s invention as currently recited in claim 104 includes in pertinent part “. . .displaying on the display a first palette window from the hierarchy of palette windows, wherein one or more of the palette windows in the hierarchy comprise palette items that are selectable by a user to include functionality in a program being created or modified, wherein the first palette window comprises one or more palette window selection items, wherein each of the one or more palette window selection items is operable when selected to display a different child palette window of the first palette window in the hierarchy of palette windows. . .” Filepp nowhere teaches or suggests this feature.

Accordingly, Applicant respectfully submits that, at least for one or more reasons presented, claim 104 and those dependent therefrom are allowable.

Claims 136 and 151 include limitations similar to claim 104, and so the arguments presented above apply with equal force to these claims, as well. Applicant respectfully submits that for at least the reasons presented above, claims 136 and 151, and those claims respectively dependent thereon are allowable.

The Office Action asserts: “Regarding claim 107, Applicant’ [sic] admitted prior art also teaches when window 100B is closed, window 100A would be opened as part of the hierarchy window system” (*emphasis added*).

Applicant respectfully submits that Applicant's admitted prior art teaches window 100A is displayed, then window 100B may be displayed while window 100A remains displayed. "Palette window 100B may partially cover or overlap palette window 100A, which remains displayed" (Specification page 3, lines 2-3) (*emphasis added*). Thus, Applicant's admitted prior art nowhere teaches or suggests that window 100A would not be displayed in response to a closing of window 100B, since window 100A remains displayed while window 100B is displayed.

Applicant respectfully submits that neither Applicant's admitted prior art nor Filepp teach or suggest:

107. (Previously Presented) The method of claim 104, wherein each of the palette windows in the hierarchy of palette windows comprises one or more navigation items, the method further comprising:

receiving user input selecting a navigation item of the second palette window, wherein the navigation item is operable when selected to close a currently displayed palette window and display a previously displayed palette window;

closing the second palette window in response to said user input selecting the navigation item; and

displaying the first palette window on the display in response to said user input selecting the navigation item. (*emphasis added*)

Furthermore, claim 107 includes the features of claim 104. Applicant respectfully submits that neither Applicant's admitted prior art nor Filepp teach or suggest a combination of the features ". . . displaying on the display a first palette window from the hierarchy of palette windows, wherein one or more of the palette windows in the hierarchy comprise palette items that are selectable by a user to include functionality in a program being created or modified, wherein the first palette window comprises one or

more palette window selection items, wherein each of the one or more palette window selection items is operable when selected to display a different child palette window of the first palette window in the hierarchy of palette windows. . .*(emphasis added)*” and “... wherein each of the palette windows in the hierarchy of palette windows comprises one or more navigation items. . . *(emphasis added)*”

Thus, claim 107 is believed to be allowable for at least one or more of these further reasons.

Claims 81, 85, 88-94, 102, 108, 110, 114-116, 123, 125-127, 141-142, 147-148, 150, and 152 were rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant’s admitted prior art, Filepp, and Gavron et al. (“How to Use Microsoft Windows NT 4 Workstation”, hereinafter “Gavron”).

Applicant respectfully submits that there is no teaching, suggestion, or motivation to combine Applicant’s admitted prior art, Filepp, and Gavron in either of the references or in the prior art. As held by the U.S. Court of Appeals for the Federal Circuit in *Ecolochem Inc. v. Southern California Edison Co.*, an obviousness claim that lacks evidence of a suggestion or motivation for one of skill in the art to combine prior art references to produce the claimed invention is defective as hindsight analysis. Furthermore, Applicant respectfully submits that it is nonobvious to combine Applicant’s admitted prior art, Filepp, and Gavron. Moreover, even if Applicant’s admitted prior art, Filepp, and Gavron were combinable, Applicant respectfully submits they would not produce Applicant’s invention as claimed.

The Office Action cites various of the dependent claims as being rejected under 35 U.S.C. 103. Various of the independent claims have been amended and are believed to be allowable as argued above. Applicant respectfully submits: “If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)” as stated in the

MPEP §2143.03. Accordingly, Applicant respectfully submits that claims 73-76, 78-120, 122-144, and 146-157 are allowable. Applicant also respectfully submits that various of the dependent claims are nonobvious and are allowable with regards to Applicant's admitted prior art, Filepp, and Gavron, as well.

Applicant also respectfully submits that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

Applicant respectfully requests removal of the §103 rejections.

CONCLUSION

In light of the foregoing amendments and remarks, Applicant submits the application is now in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5150-43100/JCH.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☒ Request for Continued Examination

Respectfully submitted,



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